IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1408 of 1986
To
FIRST APPEAL No. 1411 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SECOND SPL. LAND ACQI. OFFICER - Appellant(s)
Versus
ARVINDBHAI LALJIBHAI & 1 - Defendant(s)

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Appearance :
MS HANSA PUNANI A.G.P. for Appellant(s) : 1,
MR NITIN M AMIN for Defendant(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 05/09/2006

ORAL COMMON JUDGMENT

1. This group of appeals arise from the common judgment and award made by the 3rd Extra Assistant Judge, Ahmedabad (Rural), at Narol dated 30th December, 1985, in

Land Acquisition case No. 50 of 1983 [Main] and its allied matters. They are heard together and they are now disposed of by this common judgment.

2. The lands of the respondents have been acquired under the provisions of the Land Acquisition Act [the "Act" for short] for construction of the Patana-Sarangpur Road in the District of Ahmedabad. Notification under Section 4 of the Act was issued on 25th January, 1980 and pursuant to the same, the owners of the land in acquisition submitted their objections. Thereafter, Notification under Section 6 of the Act was declared on 1st May, 1981 and thereafter, the Special Land Acquisition Officer after complying with all the formalities declared his award under Section 11 of the Act whereby, he determined compensation at Rs.0.25 paise per sq. mtr. The present respondents being aggrieved by the award of the Special Land Acquisition Officer, submitted applications under Section 18 of the Act requesting for Reference to the District Court, which was made and they were numbered as Land Acquisition Case No. 50 of 1983 [Main], L.A.C. No. 47 of 1983 to L.A.C. No. 49 of 1983.

3. At the said proceedings one of the claimant namely Laljibhai Premjibhai stepped into the witness box

and his evidence was recorded at Exh, 15. No one was examined from the other side, nor any documentary evidence was produced. On the basis of the same, the learned Judge came to the conclusion that the compensation declared by the Special Land Acquisition Officer was inadequate and it was required to be enhanced. He, therefore, granted increase of Rs.8.30 paise as additional compensation together with all the statutory benefits and interest. The learned Judge rounded up the figure as Rs.9 per sq. mtr., as awardable to the claimants. The judgment and award as stated above are dated 30th December, 1985. The Special Land Acquisition Officer having been aggrieved by the award has preferred these Appeals under Section 54 of the Act.

4. I have heard Ms. Hansa Punani learned A.G.P., for the appellant and Mr. Nitin Amin for the respondents in all the appeals. It is submitted by Ms. Punani that the award declared by the Reference Court is on higher side, considering the material on record and it is required to be curtailed substantially. As against that Mr. Amin has supported the findings given by the Reference Court and has submitted that there is no need for this Court to interfere with the award as the same is just and proper.

5. I have carefully gone through the record of these appeals and I have also given careful consideration to the submissions advanced by the learned advocates. The acquisition has taken place in the year 1980-81. The lands are situated on the outskirts of village Khambhada in Dhandhuka Taluka. These are all agricultural lands and at the relevant time they were being cultivated by the respondents. It has also come in the evidence of witness Laljibhai Premjibhai that village Sarangpur is hardly at a distance of 1 km., from village Khambhada. He has further stated that there is a tar road upto village Sarangpur on which transport buses of State Road Transport Corporation are being plied regularly. It is a religious place having famous temples of Swaminarayan Sect., and Lord Hanuman. It is frequented by the followers of this religion on large scale. Another important town namely Botad is around 8 km., from this place where there are hospitals, schools and other education institutions etc. It is also stated that in Botad there are about 15-20 banks, 15-20 oil mills, petrol pumps, State Road Transport Bus depot, Railway station etc. In short, according to this witness, the place under acquisition is situated at advantageous position. He has further stated that similarly Dhandhuka

town is also very nearby. The witness has also stated that after deducting the expenditure for agriculture the net income derived by them is Rs.2,00=00 - Rs.3,000=00 per vigha [as per Government norms it is equal to 2300 sq. mtr., for Ahmedabad Rural as stated by Mr. Amin]. The evidence of this witness is not at all challenged by other side. No other material is there on record in form of oral evidence, either on the side of the appellant or of the respondents.

6. A close perusal of the judgment of the Reference Court clearly shows that the learned Judge has taken all the relevant aspects into consideration and has thereafter proceeded to determine the aforesaid amount by way of additional compensation. When the appellant has not chosen to lead any evidence to controvert the claim of the respondents, the learned Judge was justified in taking evidence of Laljibhai Premjibhai and other documentary evidence produced by the claimants at their face value. When this is the position, there is no reason for me to interfere with the judgment and award, especially when the total amount of compensation which is awardable to the respondents/claimants is below 1 lakh in all cases and the acquisition is of the year 1980-81 and award of the Reference Court is of 30th December, 1985 I

do not see any merit in this case and hence all the appeals are required to be dismissed and they are hereby ordered to be dismissed with no order as to costs.

6.1. It is stated by Mr. Amin that by virtue of order of the Division Bench of this Court, dated 25th April, 1988, the awarded amount was deposited before the Trial Court which is at present invested in the Oriental Bank of Commerce, Branch at Ahmedabad. The said amount was permitted to be withdrawn by the respondents by furnishing solvent security to the satisfaction of the Trial Court. However, it is stated by Mr. Amin that the claimants were unable to do so and the same is still lying in the Bank. In view of the present decision in these appeals, it is ordered that the Tribunal shall withdraw the said amount from the Bank and hand over the said amount to the original claimants and/or their heirs, after due verification.

The R & P to be re-transmitted to the Tribunal forthwith.

[Akshay H. Mehta, J.]

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